

GOVERNOR'S TASK FORCE
ON THE IMPLEMENTATION OF BALLOT QUESTION 2:
THE REGULATION AND TAXATION OF MARIJUANA ACT

MEETING MINUTES

Nevada State Capitol Building
Old Assembly Chambers
101 N. Carson Street
Carson City, NV 89701

Office of the Governor
Grant Sawyer Office Building
555 Washington Avenue, Ste. 5100
Las Vegas, NV 89101

April 14, 2017 at 10:00 a.m.

The meeting was called to order at 10:02 a.m.

Members Present:

Deonne Contine, Chair
Alec Garcia
Lynn Hettrick
John Ritter
Andrea Zeller
Kevin Schiller
Joe Pollock
Richard Whitley
Dr. DiMuro
Jim Wright
Tom Robinson
Assemblyman Araujo
Mike Pawlak
Dagny Stapleton

Members Absent:

Assemblywoman Tolles
Chuck Callaway
Senator Segerblom

I. Public Comment.

An unknown caller from Azandra, LLC thanked the Task Force for their work. The way the draft is written, it is poised to create the biggest monopoly in a sensitive market. According to NRS 453.020, the people of the state of Nevada proclaimed that marijuana should be regulated in a manner similar to alcohol. The role of the distributors in this draft are diminished to mere drivers and the delivery trucks, allowing cultivators and retailers to deliver their own product which will allow them to control the market, especially since there are only a certain number of licenses allowed. The draft is also prohibiting distributors from buying or selling any product and therefore they cannot promote or market the product.

Joe Frey mentioned a proposal in the cultivation working group that would require cultivation sites to only be allowed within 15 miles of a police station. This recommendation is arbitrary. This proposal would zone out 90% of the state and have an impact on the smaller communities. Cultivation would mainly be in the urban areas, such as Las Vegas and Reno. Zoning requirements should be determined by the local municipalities and law enforcement. The cultivation working group has a proposal requiring concrete block walls with razor wire, an eight foot separation between the block fence and a chain link fence with razor wire, security cameras, alarms and a 24 hour guard. Maximum security prisons do not have this level of security. Mr. Frey believes these requirements are to keep new growers out of the market. This is a violation of Question 2, Section 3, Number 19. These security measures should be dictated by the counties, local municipalities and law enforcement agencies.

William Magrath of McDonald Carano Wilson, Litigation and Practice Chair, was present on behalf of the Independent Alcohol Distributors of Nevada. Two weeks ago Sam McMullen appeared before this group on behalf of the distributors. Mr. McMullen remains a consultant for this group along with Josh Hicks. Each individual business that makes up this organization is eligible to apply for licensure as a marijuana distributor during the 18 month exclusive opportunity that the citizens of Nevada voted in. The initiative says for 18 months after the Department starts to receive applications for marijuana establishments, the Department shall issue licenses for marijuana distributors only to persons holding a wholesale dealer license, pursuant to Chapter 369 of the NRS, unless the Department determines that there is an insufficient number of distributors. In the Department's proposed regulations, the Department wrote, "the Department has determined there is an insufficient number of distributor licenses from persons holding a wholesale liquor dealer license", and they then recommended that simultaneously two different groups also be allowed to apply for licenses during this exclusive eighteen month period. There goes the exclusivity that the Act provided to the licensed wholesale liquor dealers. What steps did the Department take to make this determination? Mr. Magrath shared a November 18, 2016 letter that the Department sent to BEVI Beverages, LLC. The letter notifies them that they are being considered for licensing and asks that the company contact Jo Lynn Smith at the Department if they are interested. Every member of Mr. Magrath's group called and provided information to Jo Lynn Smith. Members asked the Department what we can we send you and tell you about our company. The members were told they do not need to do anything, the Department will be in touch with you. This is the only letter that was received from the Department. Multiple members of the association contacted the Department by emails and letters and continually asked what else can we give you. They heard nothing. Instead they received the proposed regulation that the Department made a determination. The Department never asked the association members how they can serve the marijuana industry. Mr. Magrath's clients believe, if the Department had conducted a proper investigation, they would have correctly concluded that the multiple licenses represented by Mr. Magrath's entity would have fulfilled the requirements and would have been able to supply the marijuana distribution needed by the statute. Mr. Magrath will be delivering a letter to the Director of the Department on Monday. Mr. Magrath read Section 5 of the Act. Mr. Magrath stated that we hope that we can resolve this with the Department, but if not, my clients' rights have been violated and will proceed accordingly.

Deonne Contine thanked the working groups for all of their hard work.

II. Consideration for Approval of the March 31, 2017 Governor's Task Force for the Regulation and Taxation of Marijuana Act Meeting Minutes.

Alec Garcia made a motion to approve the March 31, 2017 meeting minutes. Kevin Schiller seconds. All-in-favor. Motion carries.

III. Introductions.

IV. Review and Consideration of Approval of Draft Recommendations from the Working Groups.

A. Production / Manufacturing

Meg Collins presented the recommendation regarding packaging requirements for edible and infused products.

Lynn Hettrick suggested removing “to” from the retail sample labels. Andrea Zeller stated anything to do with medical is to be removed.

John Ritter stated he believes there is more work to be done to be in line with guiding principles 4 and 6. Mr. Ritter is unclear about the packaging and serving size regulations because they seem contradictory. Mr. Ritter asked how a brownie would be packaged.

Andrea Zeller and Meg Collins explained the information on packaging and serving size requirements.

Joe Pollock stated he was under the impression 453D would be the recreational language and 453A would remain the medical program. Mr. Pollock asked if this would move the language from 453A into 453D.

Meg Collins suggested the working group mirrored the language from medical. This needs to be decided as we move forward.

Richard Whitley made a motion to approve the recommendation for packaging requirements. Lynn Hettrick seconds. John Ritter voted No. Motion carries by majority.

Bryan Hyun presented the recommendation regarding serving size requirements for edible marijuana products. The group proposes to limit the serving size to 10 milligrams per serving and 100 milligrams for total THC for edible product.

Lynn Hettrick made a motion to approve the recommendation. Dr. DiMuro seconds. All-in-favor. Motion carries.

B. Cultivation

Lynn Hettrick presented a recommendation regarding outdoor cultivation – buffer zone. Tessa Rognier and Lynn Hettrick drafted this recommendation.

Andrea Zeller asked about the water sources for outdoor cultivation, and asked if northern Nevada would have enough of a grow season.

Lynn Hettrick stated the Department of Conservation and Natural Resources regulates water. The grower would need adequate water rights. Northern Nevada should have enough of a grow season for at least one harvest. Question 2 does not limit the size of a grow. Local jurisdiction, zoning restrictions and water will determine the size of outdoor grows.

Madam Chair clarified that this recommendation is not asking for outdoor grows, it is putting a process in place to prevent cross pollination.

Mr. Hettrick agreed and mentioned Nevada has an industrial hemp industry. An occurrence of cross pollination would be costly for both marijuana and industrial hemp.

John Ritter suggested the working group take on the task of conservation for outdoor cultivation.

Alec Garcia made a motion to approve the recommendation regarding outdoor cultivation – buffer zone. John Ritter seconds. All-in-favor. Motion carries.

Lynn Hettrick presented the recommendation regarding home cultivation. Lynn Hettrick and Jason Stroll drafted this recommendation.

Andrea Zeller made a motion to accept the recommendation regarding home cultivation. Richard Whitley seconds. All-in-favor. Motion carries.

C. Law Enforcement

Madam Chair reviewed the recommendation regarding dispensing machines. Assemblyman Araujo mentioned this is being addressed in Assembly Bill 422.

Alec Garcia asked if a self-service vending machine in a dispensary that vends to a bud tender is also prohibited. Assemblyman Araujo answered, that it is correct, the language specifically states “in and out of a facility”.

Tom Robinson made a motion to approve. Jim Wright seconds. All-in-favor. Motion carries.

Jim Wright introduced Pamela Del Porto, Inspector General for the Nevada Department of Corrections. Ms. Del Porto presented the recommendation for the working group. The recommendation is drafted by Mike Allen and Pamela Del Porto.

Tom Robinson asked what to do if a person is brought into a facility with recreational marijuana. Ms. Del Porto stated this will be decided by the local jurisdictions.

Assemblyman Araujo mentioned Assembly Bill 422 includes an amendment regarding this subject.

Tom Robinson made a motion to approve the recommendation regarding marijuana in a correctional facility. Richard Whitley seconds. All-in-favor. Motion carries.

Mike Pawlak asked if there is any impact on prisoners on house arrest.

Ms. Del Porto stated house arrest was not included in this recommendation.

Jim Wright presented a recommendation regarding distribution to minors.

Lynn Hettrick suggested that the Department of Taxation include this recommendation in the regulations.

Alec Garcia mentioned the THC level should be clarified in subsection 3, part 3.

John Ritter mentioned contradictions within the recommendation.

Tom Robinson made a motion to approve the recommendation regarding distribution to minors. Dr. DiMuro seconds the motion. All-in-favor. Motion carries.

D. Labs

Alec Garcia presented a recommendation regarding accreditation, validation and auditing of independent laboratories.

Lynn Hettrick made a motion to approve the recommendation regarding accreditation, validation and auditing of independent laboratories. Dr. DiMuro seconds the motion. All-in-favor. Motion carries.

Alec Garcia presented a recommendation regarding proficiency testing.

John Ritter made a motion to approve the recommendation regarding proficiency testing. Dr. DiMuro seconds the motion. All-in-favor. Motion carries.

E. Transportation / Storage / Disposal

Shellie Hughes presented a recommendation regarding commercial transportation and storage.

John Ritter asked how a distributor will deal with cash received from multiple establishments during a day.

Shellie Hughes stated the working group will be submitting a recommendation regarding delivery at the next Task Force meeting.

Dr. DiMuro made a motion to approve the recommendation regarding commercial transportation and storage. Lynn Hettrick seconds the motion. All-in-favor. Motion carries.

Tim Conder presented a recommendation regarding storage requirements.

John Ritter asked if the intent of the recommendation is to ensure distributors are not stock piling or warehousing marijuana, nor are they buying or selling marijuana products. Tim Conder agreed with Mr. Ritter.

John Ritter asked if the 3 day storage policy would apply to marijuana establishments with a distributor license if the establishment is storing their own product. Mr. Conder stated this would fall under other licenses. Mr. Ritter mentioned cash storage requirements for distributors. Mr. Conder stated, in his opinion, cash storage should be addressed in a distributor agreement. Mr. Ritter asked about delivery security measures. Mr. Conder stated security is addressed in the operations recommendation.

Andrea Zeller made a motion to approve the recommendation regarding commercial transportation and storage. Alec Garcia seconds the motion. All-in-favor. Motion carries.

F. Taxation / Revenue / Regulatory Structure

Joe Pollock presented a recommendation regarding Retail – 10%.

Tom Robinson made a motion to approve the recommendation regarding Retail – 10%. Dagny Stapleton seconds the motion. All-in-favor. Motion carries.

Dagny Stapleton presented a recommendation regarding fees.

Dagny Stapleton stated there is dissent from Madam Chair.

Madam Chair stated she supports the recommendation today, although she shared concern with the wording of the recommendation. The recommendation states local governments get revenue from Question 2, but there is no revenue allocation for local governments in Question 2, there is a reimbursement for costs. With regard to the reference in the recommendation to regulate marijuana like alcohol, marijuana has very specific provisions within Question 2 as to how it is to be regulated like alcohol.

Dagny Stapleton responded that the working group thought it was comparable both in the marketing, as well as being mentioned in the fiscal note, in that it is similar to alcohol, and also that revenues be directed toward local government, so we left it in the recommendation.

Lynn Hettrick stated this is a legal business, just like any other business, and it is taxed like any other business. Local government already receives a share of taxation without sharing in the actual revenue.

Tom Robinson made a motion to approve the recommendation regarding fees. John Ritter seconds the motion. All-in-favor. Motion carries.

G. Retail

John Ritter presented the recommendation regarding the transfer of the medical program to the Department of Taxation.

Richard Whitley made a motion to approve the recommendation regarding transferring the medical program to the Department of Taxation. Dr. DiMuro seconds the motion. All-in-favor. Motion carries.

John Ritter presented the recommendation regarding dual use medical and retail.

Lynn Hettrick made a motion to approve the recommendation regarding dual use medical and retail. Joe Pollock seconds the motion. All-in-favor. Motion carries.

H. Consumer Safety / Education / Health

Mike Pawlak presented the recommendation regarding federal property and funding.

John Ritter made a motion to approve the recommendation regarding federal property and funding. Kevin Schiller seconds the motion. All-in-favor. Motion carries.

V. Public Comment.

There was no public comment.

VI. Meeting adjourned at 12:32 p.m.